THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 16462 of 1997

Date: 24-01-2007

Between:

K. Sanjeeva Reddy .. Petitioner

And

A.P.S.E.B represented by its Member Secretary

at Vidyutsoudha, Hyderabad, and others. .. Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 16462 of 1997

ORDER:

This Writ Petition has been instituted for declaring the provisional assessment order dated 21.06.1997 issued by the second respondent –Assistant Divisional Engineer on behalf of the Andhra Pradesh State Electricity Board (A.P.S.E.B).

(2) The Writ Petitioner has established a poultry farm and was running the same by securing electricity connection under category No.III bearing service connection No.189. The said poultry farm appears to have been inspected by the Assistant Engineer on 17.06.1997 at 1530 hours and the inspection has revealed certain grave incriminating irregularities allegedly committed by the Writ Petitioner, such as meddling with the electricity connection and tapping the electric energy supply from the incoming terminals duly bye-passing the same from getting recorded. The Assistant Divisional Engineer has arrived at a provisional assessment of the electric energy that escaped from revenue to be Rs.90,297/-. Realising that there was a calculation error committed, a revised provisional assessment order has been passed on 21.06.1997 assessing the revenue loss at Rs.1,48,385/-. It is this revised provisional assessment order dated 21.06.1997, which has been called in question in the above Writ Petition.

(3) The Writ Petitioner has rested his entire case on the ground that the provisional assessment order lacks a reasonable basis for arriving at such a conclusion. A detailed counter affidavit has been filed in the matter and it has been asserted that a show cause notice dated 24.11.1997 had been issued to the Writ Petitioner calling upon him to show cause why the provisional assessment order calculating the revenue loss be not confirmed. It has also been further asserted that final assessment orders were issued on 30.04.1999 assessing the loss of revenue at Rs.1,49,102/-.

(4) It is also further asserted that in terms of para 39.10 of the terms and conditions of supply of electrical energy which has been notified through BPMS 690 dated 17.09.1975 of the A.P.S.E.B, an appeal against the assessment order has been provided for, but however, the Writ Petitioner has not availed of any such opportunity. The provisional assessment order has indicated the method and manner in which the revenue loss has been assessed by the respondents. Should there be any dispute with regard to the same, it is a matter to be established with reference to the material liable to be produced before the assessing authority. It was certainly open to the Writ Petitioner to have demonstrated to the satisfaction of the respondents that in normal circumstances he would not have consumed so much of electric energy requiring him to pay a sum of Rs.1,49,102/-. But however, these are all matters which are liable to be established with reference to the material evidence adduced before the assessing authority. Such an exercise cannot be indulged in the proceedings initiated under Article 226 of the Constitution of India, all the more so, when the attack is mounted against only the provisional assessment order. The final assessment order is an independent proceeding into which the provisional assessment order merges. Since the Writ Petitioner has not challenged the final assessment order, no relief can be granted in the present Writ Petition. But however, at the time when this Writ Petition has been entertained, this Court by an order, dated 23.07.1997, passed in W.P.M.P.No.19933 of 1997 directed the respondents to reconnect and supply the electric energy subject to the Writ Petitioner depositing a sum of Rs.40,000/-, which amount the Writ Petitioner appears to have paid. It is

therefore open to the respondents to recover the balance of the assessed amount from the Writ Petitioner.

With this, the Writ Petition stands dismissed, but however, without costs.

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(N. RAMAMOHANA RAO,J)

24.01.2007

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